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18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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21 **LA MERLE RONNIE JOHNSON,**
22 Petitioner,
23 **v.**
24 **ROSANNE CAMPBELL, Warden,**
25 Respondent.

26 C 07-2921 JSW

27 **RESPONDENT'S WITHDRAWAL OF
28 MOTION TO DISMISS AND
REQUEST FOR EXTENSION OF
TIME TO FILE ANSWER**

29 Judge: The Honorable Jeffrey S. White

30 Respondent moved to dismiss this habeas petition brought by pro per inmate LeMerle
31 Johnson on the ground that it appeared Johnson had not exhausted his federal claims challenging
32 the Board's 2006 decision denying him parole by presenting them to the California Supreme
33 Court before seeking federal habeas relief. Respondent's counsel had been unable to find and
34 obtain copies of the relevant state court petitions and orders because Johnson had not provided
35 any evidence of exhaustion in his Petition. However, after receiving Johnson's reply to
36 Respondent's Motion to Dismiss and based on the information therein, Respondent's counsel
37 was able to obtain a copy of Johnson's California Supreme Court Petition, reflecting that
38 Johnson had raised his federal claims in that petition and thus, indicating that he had exhausted

1 his state court remedies. Accordingly, Respondent withdraws its motion to dismiss filed
2 December 14, 2007.

3 Based on this withdrawal, Respondent requests that the Court grant an extension of time to,
4 and including, April 4, 2008, to file an answer. To adequately respond to Johnson's Petition,
5 Respondent's counsel has twice requested — but not received — Johnson's San Mateo County
6 Superior Court and First Appellate District Court petitions, and the court's orders denying them.
7 Both the petitions and orders are necessary for Respondent to determine the validity of Johnson's
8 claims.

9 In summary, Respondent withdraws its motion to dismiss filed December 14, 2007, and
10 requests an extension of time to and including April 4, 2008 to file an Answer.

11 Dated: February 11, 2008

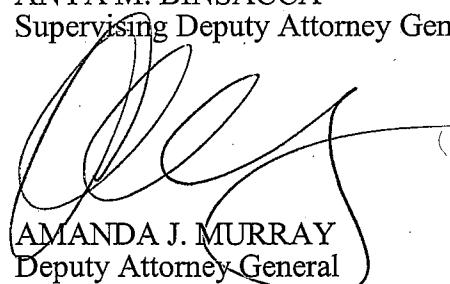
12 Respectfully submitted,

13 EDMUND G. BROWN JR.
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Johnson v. Campbell**

No.: **C 07-2921 JSW**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **February 11, 2008**, I served the attached

**RESPONDENT'S WITHDRAWAL OF MOTION TO DISMISS
AND REQUEST FOR EXTENSION OF TIME TO FILE ANSWER**

[PROPOSED] ORDER

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**La Merle R. Johnson, J-92682
Mule Creek State Prison
P.O. Box 409060
Ione, CA 95640-9060
In Pro Per**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **February 11, 2008**, at San Francisco, California.

M.M. Argarin

Declarant

M.M. Argarin

Signature